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II

99TH CONGRESS
2D SESSION

S. 2756

To amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 14 (legislative day, AUGUST 11), 1986

Mr. COHEN (for himself and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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A BILL

To amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act of 1986".

SEC. 2. MATCHING AGREEMENTS.

(a) IN GENERAL.—Subsection (b) of section 552a of title 5, United States Code, is amended—

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(1) by striking out "or" at the end of paragraph (11),

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new paragraph:

"(13) to a matching agency or a non-Federal matching entity pursuant to a written matching agreement under subsection (o) of this section.".

(b) MATCHING AGREEMENTS.—Section 552a of title 5, United States Code, is amended—

(1) by redesignating subsections (o), (p), and (q) as subsections (p), (q), and (r), respectively, and

(2) by inserting after subsection (n) the following new subsection:

"(o) MATCHING AGREEMENTS.—At least 30 days prior to disclosing any record to a matching agency or non-Federal matching entity for use in a computer matching program or front-end eligibility verification program, a source agency and the matching agency or non-Federal matching entity shall enter into a written agreement specifying—

"(1) the justification, purpose, and legal authority for conducting the program;

"(2) a description of the records that will be matched, including the data elements that will be used,

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the number of records that will be matched, and the projected starting and completion dates of the matching program;

"(3) that individuals whose records are matched will be notified of such matching program or front-end eligibility verification program and the procedures for providing such notice;

"(4) that information produced by matching programs or front-end eligibility verification programs will be verified and the method of such verification;

"(5) that records created by such program shall be retained only so long as an investigation, either criminal or administrative, is active, and procedures for destroying such records created by the program;

"(6) safeguards to ensure administrative, technical, and physical security of the records matched and the results of such programs;

"(7) prohibitions on the duplication or redisclosure of records provided by the source agency within or outside the matching agency or non-Federal matching entity conducting the matching program or front-end eligibility verification program, unless authorized by the source agency;

"(8) prohibitions on the extraction or compilation of data on individuals who are not identified as a result

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of the matching program or front-end eligibility verification program;

"(9) terms and conditions governing the use of the records provided by the source agency for use in a matching program or front-end eligibility verification program, such as procedures governing return to source agency or destruction of records used in such program; and

"(10) information on any reliability assessments that have been conducted on the records that will be matched.".

SEC. 3. NOTICE OF MATCHING PROGRAMS OR FRONT-END ELIGIBILITY VERIFICATION PROGRAMS.

(a) NOTICE IN FEDERAL REGISTER.—Subsection (e) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) with respect to any establishment or revision of a matching program or front-end eligibility verification program, at least 30 days prior to conducting

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such program, publish in the Federal Register notice of such establishment or revision.".

(b) REPORT TO CONGRESS AND OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—Subsection (p) of section 552a of title 5, United States Code, as redesignated by section 2(b)(1) of this Act, is amended by striking out "system of records" and inserting in lieu thereof "system of records, matching program, or front-end eligibility verification program".

(2) CLERICAL AMENDMENT.—The heading of such subsection (p) is amended by inserting "OR PROGRAMS" after "SYSTEMS".

SEC. 4. DATA INTEGRITY BOARD.

Section 552a of title 5, United States Code, as amended by section 2(b)(1) of this Act, is amended by adding at the end thereof the following new subsection:

"(s)(1) DATA INTEGRITY BOARDS.—Every agency shall establish a Data Integrity Board to oversee and coordinate the agency's implementation of this section.

"(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, including the senior official responsible for agency administration, the senior official designated under section 3506(b) of title 44, United States Code, and any senior official designated by the

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head of the agency as responsible for implementation of this section.

"(3) Each Data Integrity Board shall perform the following functions:

"(A) serve as the principal policymaker and overseer of the agency's implementation of this section;

"(B) develop, review, and coordinate privacy training programs for the agency's personnel;

"(C) review, approve, and maintain all written agreements for disclosure of agency records for matching programs or front-end eligibility verification programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

"(D) annually review all matching programs and front-end eligibility verification programs in which the agency has participated during the year, either as a source agency or matching agency, to determine compliance with applicable laws, regulations, and agency agreements;

"(E) annually review all recurring matching programs in which the agency has participated during the year, either as a source agency or matching agency, continued justification for such disclosures, and compliance with applicable laws, regulations, and agency agreements;

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"(F) compile an annual report to the head of the agency, the Office of Management and Budget, and the Congress on the matches in which the agency has participated as a source agency or matching agency;

"(G) receive information on the accuracy and reliability of records provided by the source agency for use in matching programs or front-end eligibility verification programs;

"(H) provide interpretation and guidance to agency components and personnel on the requirements of this section; and

"(I) review agency recordkeeping and disposal policies and practices to assure compliance with this section.

"(4) Each Data Integrity Board shall maintain such staff as necessary to carry out its functions specified by this subsection. Such staff shall include persons designated by the head of the agency as responsible for implementation of this section.".

SEC. 5. VERIFICATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, in order to protect any individual whose records are used in matching programs or front-end eligibility verification programs, no matching agency or non-Federal matching entity may deny, terminate, suspend, or reduce any Federal

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financial assistance to such individual, or take other adverse action against such individual as a result of information produced by such programs, until such agency or entity has independently verified such information. Such independent verification may be from third-party sources or the individual whose records are matched.

(b) INDEPENDENT VERIFICATION.—Independent verification required by subsection (a) of this section shall relate to—

(1) the amount of the asset or income involved,

(2) whether such individual actually has or had access to such asset or income for such individual's own use, and

(3) the period or periods when the individual actually had such asset or income.

(c) OPPORTUNITY TO REFUTE INFORMATION.—Notwithstanding any other provision of law, no matching agency or non-Federal matching entity may deny, terminate, suspend, or reduce any Federal financial assistance to any individual described in subsection (a), or take other adverse action against such individual as a result of information produced by a matching program or a front-end eligibility verification program, until such agency or entity has provided such individual an opportunity to refute the information produced by such program.

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(d) NOTICE OF DECISION.—Notwithstanding any other provision of law, in all cases involving denial, reduction, suspension, or termination of Federal financial assistance as a result of information produced by a computer matching program or front-end eligibility verification program, an individual shall be provided with notice of the findings of the matching agency or non-Federal matching entity made on the basis of verified information, of the adverse action to be taken, and information on the right to appear and any opportunity for a hearing.

(e) SANCTIONS.—Notwithstanding any other provision of law, no source agency may disclose any record or system of records to a matching agency or non-Federal matching entity for a matching program or front-end eligibility verification program if such source agency has reason to believe that the requirements of this section and any matching agreement entered into pursuant to section 552a(o) of title 5, United States Code, are not being met by such matching agency or entity.

(f) DEFINITIONS.—For purposes of this section—

(1) The terms "matching program", "front-end eligibility verification program", "matching agency", "non-Federal matching entity", "record", and "source agency" shall have the meanings given to such terms by section 552a(a) of title 5, United States Code.

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(2) The term "Federal financial assistance" means any assistance provided through a Federal grant, loan, or contract of insurance or guaranty.

SEC. 6. DEFINITIONS.

Subsection (a) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(8) the term 'matching program' means any computerized comparison of two or more automated systems of records or a system of records with a set of non-Federal records to identify individuals common to two or more of the systems of record or unique to one of the systems of record, but such term does not include—

"(A) matches done to produce a statistical record; or

"(B) matches performed by an agency in which no records or systems of records are disclosed to other agencies or non-Federal entities;

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"(9) the term 'front-end eligibility verification program' means the certification of accuracy of information supplied by an applicant for Federal financial assistance (as defined in section 5(e)(2) of the Computer Matching and Privacy Protection Act of 1986) by matching such information against a computerized data base;

"(10) the term 'matching agency' means any agency performing a matching program;

"(11) the term 'source agency' means the agency which discloses records from a system of records to be used in a matching program or a front-end eligibility verification program; and

"(12) the term 'non-Federal matching entity' means any State or local government, or agency thereof, which acts as a matching or source agency for matching programs or front-end eligibility verification programs involving Federal Government data.".

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